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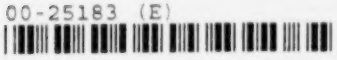
COMPREHENSIVE REVISION OF THE FINANCIAL REGULATIONS AND RULES: FURTHER CLARIFICATIONS

1. In December 1999, the Advisory Committee on Administrative and Budgetary Questions (ACABQ) completed a review of the report of the Administrator on the comprehensive revision of the UNDP Financial Regulations and Rules. The ACABQ report is presented to the Executive Board in document DP/2000/7.

2. The present paper provides further explanation by the Administrator on the comments made by the Advisory Committee.

3. In commenting on document DP/2000/4, the Advisory Committee notes in paragraph 3 of its report that it had serious difficulties reviewing the proposed changes to the UNDP Financial Regulations and Rules. The Committee also notes that the format used in document DP/2000/4 does not ease the identification of the revisions and additions made to the regulations. The Administrator acknowledges that the comprehensive nature of the proposed revision of the Financial Regulations and Rules has entailed a multifaceted and complex process, which has touched on many financial and technical issues relating to UNDP activities. The Administrator similarly acknowledges that the resulting document containing the proposed revised Financial Regulations and Rules is not easily comparable to the current Financial Regulations and Rules. Precisely because of the very extensive nature of the proposed revisions, the document comprises a mix of modifications in the structure of the regulations and rules (i.e., the order in which they are presented) and changes to the content of individual regulations and rules as opposed to straightforward amendments. The Administrator therefore submits that a presentation of the type suggested by the Advisory Committee in paragraphs 3 and 8 of its report would not facilitate an understanding of the rationale for the overall revision. Instead, the Administrator has chosen to present the proposed revision in his report DP/2000/4 and, in agreement with the Office of Legal Affairs (OLA), to



circulate to the Executive Board the comprehensive comparative table prepared by OLA (DP/2000/CRP.5).

4. The Advisory Committee notes in paragraph 4 of its report that no explanations are provided in document DP/2000/4 regarding the set of rules that are proposed to be "upgraded" to the level of regulations. The Administrator wishes to draw the attention of the Executive Board to paragraphs 10 and 11 of document DP/2000/4, which present an planation of the rationale for the change in the level where the information is placed. Furthermore, the Administrator would like to underline that most of the rules proposed to be "upgraded" to the level of regulations are existing rules that, by their nature and wording, contain delegation of authority to the Administrator. Thus, the wording "The Administrator may ..." indicates an authority delegated to the Administrator by the Executive Board. ' In accordance with the hierarchy between regulations and rules outlined in paragraph 10 of document DP/2000/4, which follows from current Regulations 1.1, 1.2 and 14.1 and Rule 101.1 (proposed revised Regulations 1.01, 1.02 and 2.02), the provisions delegating authority to the Administrator should appropriately be placed at the level of regulations.

5. Conversely, two regulations are proposed to be "downgraded" to the level of rules. The current Regulation 8.11 states that "approval of UNDP assistance to a project becomes effective upon signature of the project document by the Government or Governments and UNDP and, where appropriate, by an executing agency or other party selected under Regulation 8.10 (e) above". The current Regulation 8.9 (proposed revised regulation 16.02) provides the Administrator with the authority to approve, under such limits as the Executive Board may from time to time prescribe, assistance to country, regional and interregional projects (interregional projects no longer being in existence). The determination or approval of the time at which the commitments following from the approval of programme activities should take effect may be said to be a matter of operational consideration rather than general policy. In addition, it may be said that this latter authority would follow from - or even be inherent in - the former. It is believed, therefore, that the provision contained in the current Regulation 8.11 should be placed at the level of a rule.

6. As regards the current Regulation 8.10, the Administrator believes that the overarching principle for the selection or designation of an entity as executing entity is expressed in the current Regulation 8.10 (e) (vi). This provision requires the entity in question to have a "proven operational and managerial capacity and the ability to provide the needed services in a cost-effective manner and ensure its accountability to the Administrator". The additional conditions set out in Regulation 8.10 (e) (i)-(v) may be said to be of a more detailed operational nature, and it is proposed, therefore, that the Administrator be given the authority to define such conditions (i.e., proposed revised Rule 17.04).

7. The Advisory Committee notes in paragraph 5 of its report that any changes in the terminology of the financial regulations and rules should be consistent with the agreement to harmonize the budget presentation of United Nations funds and programmes, in particular those of UNFPA and UNICEF. The Administrator would like to reassure the Executive Board, as mentioned in paragraph 16 of document DP/2000/4, that the relevant proposed changes in the terminology are

fully consistent with the new harmonized budget presentation as contained in document DP/1997/2. Most of the other changes in the terminology were introduced to reflect past Executive Board decisions. While the Administrator agrees that the ultimate aim is full consistency in all the terminology used by all funds and programmes, he believes that what is needed first is full consistency between UNDP Executive Board decisions and UNDP regulatory documents in order to strengthen the UNDP accountability framework. The Advisory Committee is also of the view that new terms such as "committing officer" and "verifying officer" may be potentially misleading and should be avoided. The Administrator wishes to advise the Executive Board that those new terms are proposed precisely to clarify the basic concepts of the revised and strengthened UNDP expenditure control policy and thereby avoid misinterpretation of the functions and accompanying responsibilities. The Advisory Committee also notes that the proposed new terms and definitions were not submitted to the Consultative Committee on Administrative Questions (CCAQ). The Administrator wishes to inform the Executive Board that, as recorded in the report of the ninetieth session of the Consultative Committee on Administrative Questions (Financial and Budgetary Questions), held in New York from 30 August to 3 September 1999, CCAQ was informed that UNDP was undertaking an extensive review of its Financial Regulations and Rules. CCAQ encouraged organizations planning changes to their financial regulations and rules to inform the Secretary of CCAQ as soon as such changes were approved in order that the CCAQ web site could be modified accordingly.

8. In paragraph 6 of its report, the Advisory Committee questions the rationale for the proposed Financial Regulation 2.02 (c), under which the Administrator would be authorized to suspend the application of any of the financial rules. The Administrator would like to draw the attention of the Executive Board to the fact that this authority is already granted in the existing financial regulations and rules, in the same language, under current Rule 101.1 (d). The only proposed change here is to transform the rule into a regulation, in accordance with the explanation provided in paragraph 4 above, since the authority to suspend the financial rules must surely be delegated by the Executive Board to the Administrator, just as the authority to issue the financial rules is delegated to him by the Board (see proposed revised Regulation 2.02 (a)), and is not an authority merely assumed by the Administrator.

9. The Advisory Committee notes in paragraph 7 of its report that it has serious difficulties understanding the reasons for the introduction of the changes discussed in paragraphs 40-48 of document DP/2000/4 and points out that the fundamental principles underlying those changes have not yet been agreed on by the governing bodies of UNDP. The Administrator believes that paragraphs 40-48 of document DP/2000/4 provide the necessary information for the Executive Board to clarify the mandate of UNDP on those four proposed changes. The Administrator would also like to draw the attention of the Board to the fact that, with the exception of the grant modality, those changes are proposed in order to adjust the UNDP regulatory framework to the reality of the UNDP business environment and to current practices.

10. Finally, the Administrator would like to underline the implications any delays in approving the revised financial regulations and rules would have on

the implementation of the UNDP accountability framework. The fundamental rationale for the proposed comprehensive revision, as stated in paragraphs 4, 8 and 9 of document DP/2000/4, is that the current body of financial regulations and rules does not reflect the various changes and developments that have occurred in UNDP in recent years in such areas as programming and execution modalities. The current financial regulations and rules, therefore, no longer provide an adequate accountability framework for UNDP. After the Executive Board has approved the financial regulations, the Administrator will formally approve the financial rules, incorporating any amendments that may result from the deliberations of the Executive Board on the regulations. Following the approval of the rules, the Administrator will, through the Assistant Administrator, Bureau of Management, issue detailed financial procedures, in the form of a revised Finance Manual and a Manual of Operations Management. Operational units, including country offices, will require a certain amount of time to phase in the application of new procedures. A delay of the approval of the financial regulations and rules by the Executive Board will result in a corresponding delay of each subsequent step. Since country offices and headquarters units have indicated that they are practically unable to utilize the current Finance Manual, a delay in issuing the revised manual would leave operational units without up-to-date general guidance, which would in turn expose those units, and therefore UNDP, to financial risk.